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Case No. SACV 13-1957-VAP (JEM)

SUMMARY DISMISSAL ORDER

CALIFORNIA ORANGE COUNTY
SUPERIOR COURT,

Respondents.

On December 17, 2013, Timothy Wilson Scott (“Petitioner”), a state prisoner proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (“Petition”), in which he challenged the validity of his conviction and/or sentence in Orange County Superior Court case number 97WF1282. (Petition at 1-2.)

For the reasons set forth below, the Court finds that the Petition should be dismissed with prejudice as moot.

DISCUSSION

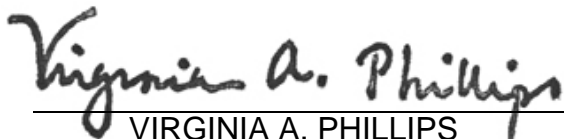
1 Article III, Section 2 of the United States Constitution establishes the scope of federal
2 court jurisdiction, which includes "all Cases . . . arising under this Constitution . . . [and]
3 Controversies to which the United States shall be a Party." An actual controversy must exist
4 between the parties throughout all stages of the proceeding. See Alvarez v. Smith, 558
5 U.S. 87, 92 (2009); see also Preiser v. Newkirk, 422 U.S. 395, 401 (1975). An action
6 becomes moot when the issues "are no longer 'live,' or the parties lack a legally cognizable
7 interest in the outcome." Powell v. McCormack, 395 U.S. 486, 496 (1969). "Mootness is
8 jurisdictional." Burnett v. Lampert, 432 F.3d 996, 999 (9th Cir. 2005) (citation omitted).

9 In these habeas proceedings, the relief sought, i.e., Petitioner's immediate release
10 from custody, is unique to the Petitioner himself and cannot be transferred. "In other words,
11 the claims [are] extinguished upon [a] petitioner's death and no party can be substituted for
12 him." Pennewell v. Carey, No. 2:06-cv0598 JKS EFB, 2008 WL 1860166, at *1 (E.D. Cal.
13 Apr. 23, 2008) (citing Fed. R. Civ. P. 25(a)). "Because petitioner's death renders this case
14 moot, the petition for writ of habeas corpus should be dismissed as moot." Garceau v.
15 Woodford, 399 F.3d 1101 (9th Cir. 2005); see also Griffey v. Lindsey, 349 F.3d 1157 (9th
16 Cir. 2003) (dismissing a petition for writ of habeas corpus as moot because petitioner had
17 died).

18 ORDER

19 IT IS HEREBY ORDERED that this action is dismissed with prejudice.

20
21 DATED: April 24, 2017

22 
23 VIRGINIA A. PHILLIPS
24 CHIEF UNITED STATES DISTRICT JUDGE
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